

BLEICHMAN AND KLEIN

ATTORNEYS AND COUNSELORS AT LAW

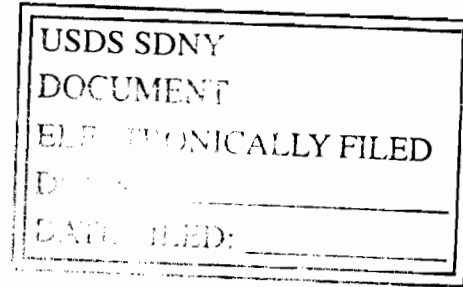
268 WEST ROUTE 59
SPRING VALLEY, NY 10977
845-425-2510

113 CEDARHILL AVE.
MAHWAH, NJ 07430
201-529-3411

MEMO ENDORSED

November 16, 2009

HON. KENNETH M. KARAS
U.S. District Court
300 Quarropas St., Chambers 533
White Plains, NY 10601



RE: Zager v. Capital One Bank.
Case No.: 09-7019

Dear Judge Karas:

Pursuant to Your Honor's individual practices, Plaintiff requests a Pre-Motion conference to submit a motion pursuant to Federal Rule of Civil Procedure 23, to certify this lawsuit as a class action, against Capital One Bank.

The instant action meets the requirements for class certification in that:

- (1) the class is so numerous that joinder of all members is impracticable
- (2) there are questions of law and fact common to the class
- (3) the claims or defenses of Plaintiff are typical of the claims or defenses of the class; and
- (4) Plaintiff will fairly and adequately protect the interests of the class.

The instant action also meets the requirements of Rule 23(b)(1)(A), in that the prosecution of separate actions by or against individual members of the class would create a risk of inconsistent or varying adjudications with respect to individual members of the class which would establish incompatible standards of conduct for the party opposing the class.

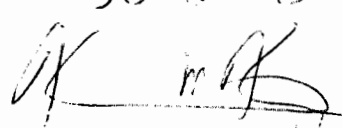
Therefore, It is respectfully requested that a Pre – Motion conference be set and that Your Honor allow Plaintiff to file a Motion for Class Certification.

Respectfully yours,


Joshua N. Bleichman/jf

cc. Richard D. Fairbank, CEO
Capital One Bank
1680 Capital One Dr.
McLean, VA 22102-3407

*The Court will hold a pre-motion
conference on January 11, 2010, at 10:00
Defendant is to respond to this
letter by December 10, 2009.*

So Ordered.

12/1/09